

AMENDED IN ASSEMBLY JUNE 24, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 405**

**Introduced by Senator Hertzberg**

**(Principal coauthor: Senator Leno)**

**(Coauthors: Senators Beall and Wieckowski)**

(Coauthors: Assembly Members Atkins, Chiu, Cooley, Dodd, Gonzalez,  
and Jones-Sawyer)

February 25, 2015

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~~An act to add and repeal Section 42008.8 of the Vehicle Code, relating to vehicles.~~ *An act to amend Section 1214.1 of the Penal Code, relating to crimes.*

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Hertzberg. ~~Vehicles:—infraction—and misdemeanor violations:—amnesty.~~ *Failure to appear in court: fines.*

*Existing law authorizes the court, in addition to any other penalty in an infraction, misdemeanor, or felony case, to impose a civil assessment of up to \$300 against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law, or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail, as specified. Existing law provides that the assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant, and requires the court, if the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail, to vacate the assessment.*

*The bill would provide that ability to post bail or to pay the fine or civil assessment is not a prerequisite to filing a request that the court vacate the assessment. The bill would also provide that the imposition or collection of bail or a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge.*

~~Existing law requires a county to establish a one-time amnesty program for fines and bail due on or before January 1, 2009, for certain infraction or misdemeanor violations of the Vehicle Code and the Penal Code. Existing law allows a person owing a fine or bail that was eligible for amnesty under this program to pay 50% of the total fine or bail, as defined, which is required to be accepted by the court in full satisfaction of the delinquent fine or bail. Under existing law, the amnesty program was operative from January 1, 2012, until June 30, 2012.~~

~~This bill would, until January 1, 2018, provide that a county that establishes an amnesty program to allow a person owing a fine or bail that was due on or before January 1, 2013, to pay either 20% of the delinquent amount owed, in full satisfaction of the fine or bail, if the person has income that does not exceed 125% of the federal poverty level or he or she is a recipient of any state or federal need-based assistance program, as specified, or 50% of the delinquent amount owed if he or she does not meet the above-described criteria. The bill would require a participant eligible to pay only 20% of the delinquent amount owed to declare, under penalty of perjury, that either his or her income does not exceed 125% of the federal poverty level or that he or she is a recipient of public assistance. The bill would also require a county that establishes an amnesty program to comply with guidelines promulgated by the Judicial Council. The bill would require the Department of Motor Vehicles to restore the driving privilege of a participant in the amnesty program whose driver's license was suspended for failure to appear in court or failure to pay a fine or bail, as specified. The bill would direct the Judicial Council to adopt guidelines for the amnesty program by March 1, 2016. The bill would require the Judicial Council to reimburse all costs, including personnel costs, incurred by the Department of Motor Vehicles associated with specified tasks, including posting on the department's Internet Web site information regarding the amnesty program. The bill would also require counties to file a report with the Judicial Council, for submission to the Legislature, regarding the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. The bill would state findings and declarations by the Legislature relative to~~

~~these matters. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1214.1 of the Penal Code is amended to*  
2     *read:*

3     1214.1. (a) In addition to any other penalty in infraction,  
4     misdemeanor, or felony cases, the court may impose a civil  
5     assessment of up to three hundred dollars (\$300) against ~~any a~~  
6     defendant who fails, after notice and without good cause, to appear  
7     in court for ~~any a~~ proceeding authorized by law or who fails to  
8     pay all or any portion of a fine ordered by the court or to pay an  
9     installment of bail as agreed to under Section 40510.5 of the  
10    Vehicle Code. This assessment shall be deposited in the Trial Court  
11    Trust Fund, as provided in Section 68085.1 of the Government  
12    Code.

13    (b) *(1) The assessment imposed pursuant to subdivision (a)*  
14    *shall not become effective until at least 10 calendar days after the*  
15    *court mails a warning notice to the defendant by first-class mail*  
16    *to the address shown on the notice to appear or to the defendant's*  
17    *last known address. If the defendant appears within the time*  
18    *specified in the notice and shows good cause for the failure to*  
19    *appear or for the failure to pay a fine or installment of bail, the*  
20    *court shall vacate the assessment.*

21    *(2) Ability to post bail or to pay the civil assessment shall not*  
22    *be a prerequisite to filing a request that the court vacate the*  
23    *assessment. Imposition or collection of bail or a civil assessment*  
24    *shall not preclude a defendant from scheduling a court hearing*  
25    *on the underlying charge.*

26    (c) ~~If a civil assessment is imposed under this section, pursuant~~  
27    *to subdivision (a), no bench warrant or warrant of arrest shall be*  
28    *issued with respect to the failure to appear at the proceeding for*

1 which the assessment is imposed or the failure to pay the fine or  
2 installment of bail. An outstanding, unserved bench warrant or  
3 warrant of arrest for a failure to appear or for a failure to pay a  
4 fine or installment of bail shall be recalled prior to the subsequent  
5 imposition of a civil assessment.

6 (d) The assessment imposed ~~under~~ *pursuant to* subdivision (a)  
7 shall be subject to the due process requirements governing defense  
8 and collection of civil money judgments generally.

9 (e) Each court and county shall maintain the collection program  
10 that was in effect on July 1, 2005, unless otherwise agreed to by  
11 the court and county. If a court and a county do not agree on a plan  
12 for the collection of civil assessments imposed pursuant to this  
13 section, or any other collections under Section 1463.010, after the  
14 implementation of Sections 68085.6 and 68085.7 of the  
15 Government Code, the court or the county may request arbitration  
16 by a third party mutually agreed upon by the Administrative  
17 Director of the Courts and the California State Association of  
18 Counties.

19 ~~SECTION 1. The Legislature finds and declares all of the~~  
20 ~~following:~~

21 ~~(a) Driving in California is often described as a privilege, but~~  
22 ~~for millions of Californians it is an economic necessity. Each day~~  
23 ~~millions of Californians take to the road to go to work, drop off~~  
24 ~~their children at school and activities, go shopping, and visit family.~~  
25 ~~Without the ability to drive, millions of families cannot afford to~~  
26 ~~pay the cost of housing, pay utilities, put food on the table, afford~~  
27 ~~clothing for their children, or be able to save for retirement. In~~  
28 ~~short, driving is a fundamental need of virtually every person in~~  
29 ~~the state.~~

30 ~~(b) Unfortunately, millions of Californians have lost the ability~~  
31 ~~to drive legally. Their driver's licenses have been suspended, not~~  
32 ~~because they are a danger to public safety, but because they could~~  
33 ~~not pay fines associated with minor traffic tickets and other related~~  
34 ~~fees and assessments. In the past five years, the Department of~~  
35 ~~Motor Vehicles has suspended more than 2.7 million driver's~~  
36 ~~licenses for drivers' failure to appear in court or failure to make~~  
37 ~~payments ordered by a court. The Legislative Analyst's Office~~  
38 ~~reports that there is currently more than \$10 billion in~~  
39 ~~court-ordered, uncollected debt in California and \$8 billion of this~~  
40 ~~amount is for unpaid traffic violations.~~

1     ~~(e) For many families, a driver's license suspension is the~~  
2 ~~beginning of a descent into abject poverty for which there is no~~  
3 ~~escape. Legal services advocates report that once a person gets his~~  
4 ~~or her driver's license suspended in California, it is virtually~~  
5 ~~impossible for the driver's license to be restored until all the unpaid~~  
6 ~~fees, fines, and assessments are completely paid. Many people~~  
7 ~~with a suspended driver's license are low income and can only~~  
8 ~~pay the debt off a little at a time. Others are unemployed or on~~  
9 ~~public assistance and cannot afford to make any payments. The~~  
10 ~~State of New Jersey did a study of persons with suspended driver's~~  
11 ~~licenses and found that 42 percent lost their jobs after their driver's~~  
12 ~~licenses were suspended and less than one-half of them were able~~  
13 ~~to find new jobs; 88 percent experienced a loss of income.~~

14     ~~(d) The original rationale for suspending driver's licenses was~~  
15 ~~to compel a person who had committed a serious public safety~~  
16 ~~violation to correct his or her behavior. This rationale over time~~  
17 ~~has been extended to hundreds of nonpublic safety violations. As~~  
18 ~~a report by the American Association of Motor Vehicle~~  
19 ~~Administrators (AAMVA), "Best Practices Guide to Reducing~~  
20 ~~Suspended Drivers" notes, all 50 states now suspend driver's~~  
21 ~~licenses for nonhighway safety reasons. The AAMVA report~~  
22 ~~recommends that states repeal laws that lead to driver's license~~  
23 ~~suspensions for nonpublic safety reasons and replace those~~  
24 ~~suspensions with payment plans and wage garnishments to collect~~  
25 ~~court-ordered debt.~~

26     ~~SEC. 2. Section 42008.8 is added to the Vehicle Code, to read:~~

27     ~~42008.8. (a) A county that establishes a one-time amnesty~~  
28 ~~program for fines and bail shall conduct the program in accordance~~  
29 ~~with guidelines provided by the Judicial Council. The guidelines~~  
30 ~~shall be adopted by March 1, 2016. Until the guidelines are adopted~~  
31 ~~by the Judicial Council, each program shall initially be conducted~~  
32 ~~in accordance with the Judicial Council's guidelines adopted~~  
33 ~~pursuant to subdivision (f) of Section 42008.7.~~

34     ~~(b) Unless agreed otherwise by the court and the county in~~  
35 ~~writing, the government entities that are responsible for the~~  
36 ~~collection of delinquent court-ordered debt shall be responsible~~  
37 ~~for implementation of the amnesty program as to that debt,~~  
38 ~~maintaining the same division of responsibility in place with~~  
39 ~~respect to the collection of court-ordered debt under subdivision~~  
40 ~~(b) of Section 1463.010 of the Penal Code.~~

~~(e) Commencing January 1, 2016, until January 1, 2018, each amnesty program shall accept, in full satisfaction of any eligible fine or bail, of which the due date for payment was on or before January 1, 2013, the following amounts:~~

~~(1) (A) Twenty percent of the fine or bail if the person has income that does not exceed 125 percent of the federal poverty level, or the person is a recipient of any of the state or federal need-based assistance programs described in subdivision (a) of Section 68632 of the Government Code.~~

~~(B) Each participant under this paragraph shall declare, under penalty of perjury, that either his or her income does not exceed 125 percent of the federal poverty level or that he or she is a recipient of public assistance under one or more of the programs described in subdivision (a) of Section 68632 of the Government Code.~~

~~(2) Fifty percent of the fine or bail if the person is not described in paragraph (1).~~

~~(d) Nothing in this section shall limit the court's ability to issue an earning withholdings order as described in Chapter 5 (commencing with Section 706.101) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure or to order the person to perform community services in lieu of paying the amounts specified in subdivision (e).~~

~~(e) The department shall restore the driving privilege of a participant in the amnesty program whose driver's license was suspended pursuant to Section 13365.~~

~~(f) The Judicial Council shall reimburse all costs, including personnel costs, incurred by the department associated with both of the following:~~

~~(1) Providing on a separate insert with each motor vehicle registration renewal notice a summary of the amnesty program established pursuant to this section.~~

~~(2) Posting on the department's Internet Web site information regarding the amnesty program.~~

~~(g) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.~~

~~(h) Each court or county implementing an amnesty program shall file, not later than one year after establishing the program, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about~~

1 the number of cases resolved, the amount of money collected, and  
2 the operating costs of the amnesty program. The Judicial Council  
3 shall submit a report to the Legislature summarizing the  
4 information provided by each court or county. The report shall be  
5 submitted in compliance with Section 9795 of the Government  
6 Code.

7 (i) This section shall remain in effect only until January 1, 2018,  
8 and as of that date is repealed, unless a later enacted statute, that  
9 is enacted before January 1, 2018, deletes or extends that date.

10 SEC. 3. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.